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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 JACK SMITH SR.,

11 Plaintiff,

12 v.

13 JANET NAPOLITANO, *et al.*,

14 Defendants.
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Case No. 2:11-CV-1138-KJD-CWH

ORDER

16 Presently before the Court is Plaintiff's Motion for Relief from Judgment (#41). Plaintiff
17 seeks relief from the Court's order dismissing his action because Plaintiff failed to file any response
18 to Defendants' motion to dismiss. Generally speaking, the Court construes *pro se* pleadings
19 liberally. However, *pro se* parties are expected to abide by the Federal Rules of Civil Procedures just
20 as parties represented by counsel. Plaintiff had previously been granted extensions of time to
21 associate counsel after his initial counsel withdrew from representation. However, after failing to
22 meet the last deadline given him by the court or to seek a timely extension, as he had done
23 previously, the Court granted Defendants' unopposed motion to dismiss.

24 Plaintiff now asserts that he mistakenly believed that the thirty day extension given him by
25 the Court did not include weekends and holidays. However, Plaintiff had previously met deadlines
26 timely without excluding weekends and holidays. Federal Rule of Civil Procedure 6(a)(1)(B) clearly

1 states that Saturdays, Sundays, and legal holidays should be counted in computing time. Here,
2 Plaintiff's alleged misunderstanding of the Rules is not excusable neglect justifying an extension of
3 time for good cause under Rule 6(b)(1)(a) or Rule 60. Further, even if the Court found excusable
4 neglect, Plaintiff has not asserted that he has a meritorious opposition to the motion to dismiss, such
5 as actual exhaustion of his claims under the Federal Tort Claim Act. Therefore, the Court must deny
6 Plaintiff's motion because he has failed to show mistake, inadvertence, or excusable neglect and
7 granting him leave to file a belated opposition would be futile.

8 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Relief from Judgment
9 (#41) is **DENIED**.

10 DATED this 4th day of March 2013.

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Kent J. Dawson
United States District Judge

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